Remarks

Claims 1-16 are currently pending in this application. By this response, Applicant requests that claims 1, 6, 7, 10, 13, and 14 be amended and that claim 15 be canceled and replaced by new claim 17. Claims 1-14 and 16-17 are presented to the Examiner for consideration.

The Examiner has indicated that claims 6 and 15 would be allowable if rewritten in independent form. Further, the Examiner has indicated that claim 16 is allowed. By this amendment, applicant amends claim 6 to be an independent claim. Claim 15 has been rewritten and presented a new claim 17. Reconsideration and allowance of these claims is respectfully requested.

Claim 1 has been rejected under 35 U.S.C. § 102 (b) over England. England describes a recreational balance board which pivots and rolls upon a fulcrum trapped within a channel on the bottom of the board. The device of the subject invention is a rehabilitative exercise platform which the user attempts to bring to horizontal with the ground while balancing the platform upon a fulcrum. The fulcrum of the subject invention can be placed anywhere beneath the platform allowing the user or a therapist to identify specific muscle groups to exercise. The board of England likewise allows variable placement of the fulcrum beneath the board. England however provides only a dynamic fulcrum which rolls beneath the board while it is in use. The device of the subject invention provides a static fulcrum which stays in place while the device is in use. The fulcrum of the subject invention contacts and holds the bottom of the platform. This allows someone using the device to identify muscles to be exercised and specifically position the fulcrum beneath the platform to work those muscles. A user on the balance board of England merely rocks on the board shifting their center of gravity above the fulcrum to balance the board. A user secured to the device of the subject invention contracts targeted musculature to manipulate the platform to overcome an offset center of gravity created by the fulcrum. The rolling fulcrum of the balance board of England does not provide targeted and controlled exercise of identified muscle groups. England is a recreational device. England does not describe the exercise device of the subject invention which allows a fulcrum to be placed anywhere beneath the bottom of the platform to provide a static fulcrum used to target specific muscle groups to exercise and rehabilitate lower extremity injuries.

Reconsideration and withdrawal of the rejection based on this reference is therefor respectfully requested.

Claims 8-12 have been rejected under 35 U.S.C. § 103(a) over England. The Office Action states it would have been obvious to manufacture any or all of the components of England of plastics to reduce cost or increase the aesthetic appeal. Further, it is stated that any label or marking on the component of England would be considered indicia. Applicant notes, England does not describe the device of the subject invention that provides a static fulcrum during use, nor does England suggest such a device. Indicia on the device of the subject invention direct placement of the fulcrum on the bottom surface of the platform allowing a user to target specific muscle groups for exercise. When the platform of the subject invention is made from transparent acrylic, a user can confirm the position of the fulcrum beneath the platform and move the fulcrum if necessary. The rolling fulcrum of the device of England is not statically positioned beneath the board. England does not suggest or describe the device of the subject invention. Applicant therefore respectfully requests reconsideration and withdrawal of the rejection.

Claim 1-5 and 7 have been rejected under 35 U.S.C. § 102(b) over Timmer. Timmer describes a ankle rehabilitation device that is a footplate to which weights are securely attached in a cantilevered manner. The device of Timmer is used primarily for non-weight bearing rehabilitative exercise where the muscles are flexed to lift the attached weights. If the attached weights are used as a fulcrum on which to balance however, the foot-size footplate of Timmer provides only a short lever arm and limited positions for fulcrum placement. The footplate of the device of the subject invention is larger than the footprint of a foot. This larger platform increases the lever arm of the device increasing resistance. Additionally, the larger platform provides greater stability for an injured person using the device and allows range of motion to be limited for an injured user. Further, the larger platform and variable placement of the fulcrum anywhere beneath that platform allows a user to specify particular muscle groups for exercise. Timmer does not describe the device of the subject invention. Reconsideration and withdrawal of the rejection based on this reference is therefore respectfully requested.

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In view of the foregoing remarks and the amendments to the claims, the applicant believes that the claims are now in condition for allowance and such action is respectfully requested.

Applicant invites the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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